IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23185 of 2004

Between:

Gabbat Lingaiah, S/o. Buchaiah,
R/o. Garmillapally (V), Zaffarguda (M), Warangal District.

..... PETITIONER

AND

1 The Joint Collector, Warangal, Warangal District.
2 The Revenue Divisional Officer, Warangal, Warangal District.
3 The Mandal Revenue Officer, Zafargadh, Warangal District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the order dated 20-9-2004 in proceedings No.E/3107/2004 passed by the 2nd respondent herein and also the order dated 12-11-2004 in Appeal No. 30/2004 passed by the 1t respondent as illegal, arbitrary and consequently direct the respondent to supply commodities to the petitioner's Fair Price Shop for distribution to the Card-holders and pass such other order or orders.

Counsel for the Petitioner:MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The authorization of the petitioner as a fair price shop dealer was suspended by the 2nd respondent on the ground that the petitioner failed to submit the Distribution Register for the month of August, 2004, display the name board in front of the shop and that failed to distribute the rice to certain AAY Card Holders. Aggrieved thereby, he preferred an appeal before the 1st respondent. The 1st respondent rejected the appeal through order, dated 12.11.2004. Hence, the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The main allegation against the petitioner is that he failed to submit the Distribution Register for August 2004, and did not display the name board and price-list. An allegation is also made about the non-distribution of rice to AAY Card Holders. In the appeal preferred against it, the 1st respondent took the view that he is not inclined to interfere 'at this stage'.

When the subject matter of the appeal is the order of suspension, the refusal to interfere with the same, only in view of the 'stage', does not appear to be a proper exercise of power. The 1st respondent could certainly have examined the matter and decided as to whether the suspension, in the circumstances of the case, was warranted at all. Refusal to examine the matter, would amounts rendering the appellate power otiose. Further, the charges against the petitioner are not so serious. It was not even alleged that he has diverted the essential commodities to black market.

Taking the totality of the circumstances into account, the writ petition is

disposed of directing that the petitioner shall be entitled to continue as fair price shop dealer, till the 2nd respondent passes final orders in the proceedings. To that extent, the order of suspension shall stand set aside. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 14th December, 2004

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To

1 The Joint Collector, Warangal, Warangal District.
2 The Revenue Divisional Officer, Warangal, Warangal District.
3 The Mandal Revenue Officer, Zafargadh, Warangal District.

4. 2CCs to G.P. for Civil Supplies, High Court Buildings, Hyderabad(OUT).

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